

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TAMEKA ALLEN,

Plaintiff,

v.

DR. RICHARD C BENSON, *et al.*,

Defendants.

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Civil Action No. 4:22-cv-807-ALM-KPJ

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report and Recommendation of the United States Magistrate Judge in this action (the “Report”) (Dkt. #31), this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. In the Report, the Magistrate Judge recommended granting in part and denying in part Defendants Dr. Richard C Benson, Dr. Rafael Martin, Colleen Dutton, Ellen Ammons, Janette Bell, Sarah Dorsey, Agapito Garcia, Bradley Powell (together, the “Individual Defendants”), and the University of Texas at Dallas’s Motion to Dismiss Plaintiff’s First Amended Complaint Pursuant to Rules 12(b)(1) and 12(b)(6) (Dkt. #15). The Magistrate Judge recommended that Plaintiff Tameka Allen’s the Americans with Disabilities Act (“ADA”) claims for money damages against the Individual Defendants be dismissed without prejudice and Plaintiff’s ADA claims against University of Texas at Dallas be dismissed without prejudice in their entirety pursuant to Defendants’ entitlement to sovereign immunity; and Plaintiff’s ADA claims for injunctive relief against the Individual Defendants be dismissed with prejudice for failure to state a claim. The Magistrate Judge further recommended the Motion (Dkt. #15) be denied to the extent it seeks dismissal of Plaintiff’s Title VII failure-to-accommodate claim

against University of Texas at Dallas; and Plaintiff's Title VII failure-to-accommodate claim against the Individual Defendants be dismissed with prejudice *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). On August 7, 2023, Defendants filed Objections (Dkt. #36) to the Report.

The Court has conducted a *de novo* review of the Objections and is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the Objections are without merit as to the ultimate findings of the Magistrate Judge. Accordingly, Defendants' Objections (Dkt. #36) are **OVERRULED** and the Magistrate Judge's Report is **ADOPTED** as the findings and conclusions of the Court.

IT IS ORDERED that the Motion to Dismiss Plaintiff's First Amended Complaint Pursuant to Rules 12(b)(1) and 12(b)(6) (Dkt. #15) is **GRANTED IN PART** and **DENIED IN PART**. The Motion (Dkt. #15) is **GRANTED** as follows: Plaintiff's ADA claims for money damages against the Individual Defendants are **DISMISSED WITHOUT PREJUDICE**; Plaintiff's ADA claims against University of Texas at Dallas are **DISMISSED WITHOUT PREJUDICE** in their entirety pursuant to Defendants' entitlement to sovereign immunity; and Plaintiff's ADA claims for injunctive relief against the Individual Defendants are **DISMISSED WITH PREJUDICE** for failure to state a claim.

IT IS FURTHER ORDERED that the Motion (Dkt. #15) is **DENIED** to the extent it seeks dismissal of Plaintiff's Title VII failure-to-accommodate claim against University of Texas at Dallas.

IT IS FURTHER ORDERED that Plaintiff's Title VII failure-to-accommodate claim against the Individual Defendants are **DISMISSED WITH PREJUDICE** *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

IT IS SO ORDERED.

SIGNED this 13th day of September, 2023.

A handwritten signature in black ink, reading "Amos Mazzant", is written over a horizontal line.

AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE